should speak eloquently for it.[21] The words of Lord Bowen, *à propos* the rules of the Supreme Court need no comment: "It may be asserted without fear of contradiction that it is not *possible* in the year 1887 for an honest litigant in Her Majesty's Supreme Court to be defeated by any mere technicality, any slip, any mistaken step in his litigation."[22]

England's experiment may well furnish guidance to us. The judges of the Supreme Court, with the assistance of suggestions from other judges and active practitioners, should be able to make a set of simple rules, subject always to amendment and repeal as changing conditions require, which would make federal practice, not a confusing system of technicalities in which substance is often sacrificed to form, but an easily intelligible system of simple rules.[23] These would not modify in any way the jurisdiction of the federal courts, which is a purely legislative function; they would merely regulate procedure attendant upon the exercise of that jurisdiction where it exists. This, and no more, has been the effect of the equity and admiralty rules promulgated by the Supreme Court.[24] The impossibility and impracticability of conforming to state practice at all times has created a situation which is crying for a change. And the rules evolved for federal courts would readily be a model to be emulated by our state courts. Psychologically, this seems a highly feasible method for working toward nation-wide uniformity, when we have the vital element of state pride to cope with.

RECENT DECISIONS

ATTORNEY AND CLIENT—RECEIPT OF DEBTOR'S CHECK—IMPLIED AUTHORITY TO ENDORSE CLIENT'S NAME.—The plaintiff's attorney, employed to collect money due her, received the debtor's check, payable to his client and himself. He gave his client's receipt, endorsed her name on the check, and collected the amount from the drawee bank. He accounted to her for only a small portion thereof. The plaintiff sues the endorsee bank for the remainder. *Held,* the attorney had implied authority to

[21]"The relation of rules of practice to the work of justice is intended to be that of handmaid rather than mistress, and the Court ought not to be so far bound and tied by rules which are after all only intended as general rules of procedure, as to be compelled to do what will cause injustice in the particular case." Per Lord Collins, M. R., in *Re* Coles and Ravenshear [1907] 1 K. B. 1, 4.

[22]From an essay on the Administration of the Law, in a symposium entitled The Reign of Queen Victoria (1887) Vol. I, 309. See Dicey, Law and Public Opinion (1908) 207. In the preface to Rosenbaum's book, T. Willes Chitty, Master of the Supreme Court of Judicature, says at p. xi: "That the rules made by this Committee are, however, far better and far more effective than any that has been, or are likely to be, produced by our English legislature, no one, I think, can doubt. Instances of rules relating to matters of practice and procedure made by our legislature are not wanting, and such rules have for the most part proved unworkable and ill adapted to the requirements of actual practice."

[23]See Report of Committee on Uniform Judicial Procedure (1919) 5 Journ. Am. Bar Ass'n 468.

[24]See New England Ins. Co. *et al. v.* Detroit & Chicago Steam Nav. Co. (D. C. 1871) 18 Fed. Cas. No. 10,154 at p. 66; *In re* Kirkland *et al.* (D. C. 1873) 14 Fed. Cas. No. 7842, at p. 677.

make the endorsement and the bank is not liable. *Crahe* v. *Mercantile Trust, etc. Bank* (Ill. App. 1920) 60 Natl. Corp. Reporter 775.

An agent to collect has no authority, unless expressly conferred or established by custom, to receive anything in payment of his principal's claim except cash. Mechem, Agency (2nd ed. 1914) 679. It has been held therefore that no authority can be implied to endorse his principal's name on a check so received. *Chatham Natl. Bank* v. *Hochstadter* (N. Y. 1883) 11 Daly 343. And where an agent has express authority to receive a check, no authority to endorse can be implied. *Kansas City Casualty Co.* v. *Westport Ave. Bank* (1915) 191 Mo. App. 287, 177 S. W. 1092. In such a case, his mission is wholly performed when he receives the check. An agent may, however, without express authority receive such an instrument payable to himself as a convenient way of obtaining the money due. *Potter* v. *Sager* (1918) 184 App. Div. 327, 171 N. Y. Supp. 438. For a check, apart from special agreement, is but conditional payment, not affected by the return of a receipt. See *Williams* v. *Brown* (1900) 53 App. Div. 486, 487, 65 N. Y. Supp. 1049. Payment becomes absolute, however, upon the collection of the check from the drawee bank. *Potter* v. *Sager, supra; Morrison* v. *Chapman* (1913) 155 App. Div. 509, 140 N. Y. Supp. 700. In the principal case, the attorney's indorsement to the drawee bank, if authorized, did not in any way compromise his client. She was not made liable as indorser. *Cf. Johnston* v. *Schnabaum* (1908) 86 Ark, 82, 109 S. W. 1163. Nor could the bank recover from her the amount paid if the debtor's funds proved insufficient. *First Natl. Bank* v. *Sidebottom* (1912) 147 Ky. 690, 145 S. W. 404. The attorney simply adopted a convenient method of obtaining cash payment, and could have defrauded her as easily by taking the money directly from the debtor. He was employed to collect money; and this is exactly what he did when he cashed the check. The endorsement was, therefore, impliedly authorized. *Griffin* v. *Erskine* (1906) 131 Iowa 444, 109 N. W. 13; *cf. North End Paper Co.* v. *State Bank* (1916) 198 Ill. App. 242; *cf. Natl. Fire Ins. Co.* v. *Eastern B. & L. Ass'n.,* (1902) 63 Neb. 698, 88 N. W. 863. Furthermore, if the view be taken that the attorney was not authorized even to receive the check, the decision might nevertheless be justified. For the attorney in cashing the check might be considered as only the debtor's agent. The plaintiff would then have no interest in the check, and could not maintain trover. The objection might be raised, however, that the plaintiff was one of the payees of the check.

BANKRUPTCY—PROPERTY PASSING TO TRUSTEE—RIGHT OF TRUSTEE TO SUE.—An incorporated creamery deposited with the defendant bankers funds representing the proceeds of the sale of dairy products which the creamery manufactured and sold for its "patrons", holding the right against the bank in trust for them. The bank had notice of the trust, and that the creamery had no money of its own on deposit. Upon the insolvency of the creamery and against the protests of its officers, the bank used this fund to satisfy claims of its own against the creamery. The plaintiff, as trustee in bankruptcy, sues to recover this fund on behalf of the patrons. *Held,* one judge dissenting, that the plaintiff may recover. *Edwards* v. *MacCartney et al.* (App. Div. 3rd Dept. 1920) 183 N. Y. Supp. 852.

Section 70 of the National Bankruptcy Act of 1898 specifically enumerates those classes of property which pass to the trustee in